



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,731	08/21/2003	Francois Vardon	241763US6 DIV	6198
22850	7590	11/06/2006	EXAMINER	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,731

Applicant(s)

VARDON, FRANCOIS

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,8 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,8 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/31/2006.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31, 2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bienick (6,422,673). Bienick teaches a refrigerator shelf (30; slides with respect to refrigerator body ribs 10) comprised of a panel (35) and a plastic frame structure (31) permanently/fixedly attached to the panel at its edges (Note: if never separate panel/frame, they are permanently/fixedly attached) and holding the panel in channels thereof "via a compressive lateral pressure" (since adhesive is not normally needed to hold the panel in the channels, the channels would need to be formed as such so as to provide sufficient pressure onto the panel to keep the panel in place).

The structure further includes tabs (86,87). For claims 1, 22, 24, and 25, Bienick fails to teach a specific pressure that holds the panel and structure together (although the

Art Unit: 3637

pressure naturally provided may be in this range). However, it would have been an obvious consideration to one of ordinary skill in the art at the time of the invention to use whatever pressure was necessary, including a MPa of between 5-15 or between 8-10, depending on the desired need of the person constructing the shelf. (Engineering calculations, using the coefficient of thermal expansion of the specific plastic, being used to determine the proper pressure range.) Note: no reason or calculation is discussed in the specification, as to the uniqueness of this range. Also, product by process limitations are given no weight in an article claim.

Also for claims 1 and 24, Bienick fails to teach that the plastic frame is specifically polypropylene. The examiner takes Official notice that polypropylene is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the frame of Bienick by specifically making it out of polypropylene, depending on the desired need of the person constructing the shelf, i.e. personal preferences, material readily available, shelf strength properties desired/required, etc.

For claims 23 and 26, although the first embodiment of Bienick fails to teach a bond/adhesive between the glass and plastic structure, the second embodiment (Fig. 9) teaches the shelf wherein the glass sheet is held in the frame channels via adhesive (A; column 6, lines 35-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the shelf of Bienick (first embodiment) by adding adhesive between its frame structure and glass panel, such as is taught by the second embodiment, to provide a means to additionally securely/permanently hold the glass

panel within the structure channels, to provide a means that would fill in gaps between the panel and frame structure (in places not held by the lateral pressure), etc.

Claim 7 is rejected under 35 U.S.C. 103(a) as obvious over Bienick (6,422,673) in view of Caruso et al (5,641,217). As stated above, Bienick teaches the limitations of claim 1, including a shelf with a plastic structure and panel. For claim 7, Bienick fails to teach an assembly element attached under the shelf. Caruso teaches a refrigerator (Fig. 1) having a shelf (12) comprised of a panel (30) and a plastic structure (34) attached to the panel at its edges. Furthermore, assembly elements (16) having first, second and third parts (56,28 and 54, respectively) are attached to the bottom of the shelf to support a drawer (14). It would have been obvious to one of ordinary skill in the art at the time of the invention add assembly elements on the bottom of the shelf of Bienick, such as is taught by Caruso, to provide additional storage, i.e. a drawer, below and adjacent the shelf.

Response to Arguments

Applicant's arguments, concerning the drawing objection and 112 first paragraph rejections have been fully considered and are persuasive. These rejections have been withdrawn.

Applicant's arguments, with respect to the art rejections using the reference of Goyette (6,045,101; alone and in combination with supporting references), have been fully considered and are persuasive. Therefore, the rejections have been withdrawn.

Art Unit: 3637

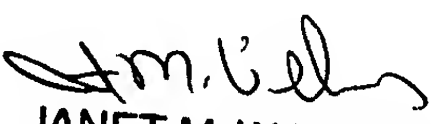
However, upon further consideration, a new ground(s) of rejection is made in view of Bienick (6,422,673).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
November 2, 2006


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637